

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5037 OF 2005

M/s. Hindustan Press

..Petitioner.

Vs.

Shri Jai Bhawani Wood Works

..

Respondent.

....

Ms. Manorana Mohanty with Simeer i/b K.R. Parekh & Co. for the
Petitioner.

Mr. P.K. Dhakephalkar with Mr. J.S. Yadav for the Respondent.

....

CORAM: DR. D.Y. CHANDRACHUD, J.

7th June, 2006.

P.C. :

Rule, made returnable forthwith. Counsel appearing for
the Respondent waives service. By consent taken up for hearing
and final disposal.

The Respondent has instituted a declaratory suit before
the Small Causes Court which is R. A. D. Suit 6474 of 1986. The
Petitioner has instituted a suit for eviction under Section 41 of the
Presidency Small Causes Court Act, 1882 which is numbered as
L.E &C. Suit No.42/51 of 2003. An application filed by the
Respondent for stay of the subsequent suit instituted by the

Petitioner under Section 10 of the Code of Civil Procedure has been allowed by the impugned order dated 17th February, 2005. In my view, the appropriate order to pass in this proceeding will be to direct that since both the suits are pending before the Court of Small Causes and similar issues arise therein, both the suits be tried together and be disposed of by the same Learned Judge of the Trial Court. There shall be an order accordingly in these terms. In order to facilitate a disposal of the two suits together, the impugned order dated 17th February, 2005 is quashed and set aside. L.E. & C. Suit 42/51 of 2003 shall accordingly be clubbed together with R. A.D. Suit 6474 of 1986 and shall be assigned by the Chief Judge of the Small Causes Court to the same Learned Trial Judge to facilitate expeditious disposal. The Petition is accordingly disposed of.